App. F. IX-4

1940

193 .

( )

Courts

File No. 113-40

Previous References

Serial Nos. 1-2

Later References.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Two only

Part B for November 1940.

SUBJECT.

Amendment of para 406 of the Civil Rules of Practice Vol I (1934 edn).

WD 0573—GPB—22,500—12-9-39

B.B. Shanklin

27.11.40.

2934/6

General and Revenue Secretariat | C/S File No. 113 of 1940. | [App. F. III-2

Serial No. 1

From

The Registrar High Court of Mysore

Roc No 237/40-41 Dt 12-11-1940.

CIVIL & MILITARY DEPARTMENT
NOV 16 1940
No 4877

Requests sanction to amend para 406 of the Civil Rules of Practice Vol I (1936 edition) by deleting the word "substituted" appearing in two places in that para:

A Statement embodying the existing rule and the rule as proposed to be amended, is placed below for perusal.

A draft of a G.O. sanctioning is also subd herewith for approval or other orders:

May be approved
Law Secy 3/15/11

May be sanctioned
I Member Hm 16/11/40.

3/16/11

Secy 18/11/40

Hm 2 18/11/40

3/19/11

3 3 M/15/11

C&M 13/11

TYPING SECTION
19 NOV. 1940
GEN. & REV. SECTT.

Issued No p 2[illegible]0 Vol Dt 4-11-40

NOTE—Contn. Sheet.

Ch. 113-40-1

R. O. C. No. 237
~~D. Dis.~~ 40-41

Enc: one

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,
Bangalore, 11th November 1940
12

SECY. LAW DEPT. * 12 NOV 1940 * GOVT OF MYSORE

L & REV. SECRETARIAT 13. NOV. 1940 2934 PROTECTION

From

T. Shamiengar, Esq., B.A., B.L.,
~~A. Sundararaja Rao, Esq., B.A., B.L.,~~
~~S. Venkata Ranga Iyengar, Esq., B.A., LL.M.,~~
Registrar, High Court of Mysore.

To

H.V. Narayana Rao, Esq., B.A., LL.B.,
Secretary to Government,
Law Department, Bangalore.

SIR,

I am directed to state that in paragraph 406, printed at page 120 of the Civil Rules of Practice and Circular Orders, Volume I (a reproduction of Civil Rule of Practice No.105, dated 29-11-1899), which deals with service of summons on a defendant, who cannot be found or who refuses to sign the acknowledgment, by affixing the summons to the house in which he ordinarily resides or carries on business or works for gain under Rule 17 of Order V of the Code of Civil Procedure, the word "substituted" has been inserted by mistake in two places. This causes confusion with what is technically called "substituted service" and can be effected in proper circumstances by order of the Court under Rule 20 of Order V, a different kind of service altogether from that to which paragraph 406 of the Civil Rules of Practice applies. The Judges of the High Court therefore propose to amend paragraph 406 by striking out the word substituted in the two places where it appears. I am directed therefore to request that the enclosed amendment, which the Judges propose to make, may be sanctioned by the Government.

I have the honour to be,

Sir,

Your most obedient servant,

T. Shamiengar
Registrar.

VJC

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Under Section 130 of the Code of Civil Procedure, 1911, (with the previous sanction of the Government) the High Court hereby directs that the word "substituted" appearing in two places in paragraph 406, printed at page 120 of the Civil Rules of Practice and Circular Orders, Volume I (1934), be deleted.

J Sanniangar
Registrar.

G. R. S. App. F VI—G 2]

SUBJECT .....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 193

Date of issue 21/11/40 193

Signed by ..... Mr. K.P.P

Section Court

File No. 113-40

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Letter No RoC 237/40-41 dt 12-11-1940 from the Registrar High Court of Mysore requesting sanction to amend para 406 of the Civil ~~Circular orders~~ Rules of practice Vol I (1934) by deleting the word "substituted" ~~Order thereon. No.~~ appearing in two places in that para

Order P2201. dt 21.11.40

Sanctioned

16/11/40

Secretary to Govt
Law Dept

To

The Registrar High Court of Mysore

May this be—

(i) printed?

(ii) treated as a standing order?

(iii) published in the Gazette, English Part?

(iv) translated?

(v) placed at the disposal of the press?

(vi) published in the Gazette, Kannada Part?

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read :—

Letter No.R.O.C.237/40-41 dated 12th November 1940 from the Registrar, High Court of Mysore requesting sanction to amend para 406 of the Civil Rules of Practice and circular orders Vol.I (1934) by deleting the word "substituted" appearing in two places in that para.

Order No. P 2201 CS-113-40-2

Dated, Bangalore, 21st Nov 40

S A N C T I O N E D.

for Secretary to Government,
Law Department.

To

The Registrar, High Court of Mysore.

Existing Rule

406. The following procedure shall be observed when substituted service of summons on a defendant has to be effected under O.V., R.17, of the Code of Civil Procedure:-

(1) When substituted service under O.V., R.17 of the Code of Civil Procedure is effected by affixing a copy of the summons on the outer door of a defendant's ordinary residence, the serving officer shall return to the Court the copy of the plaint or concise statement accompanying the summons, adding to the summons affixed a foot-note to the effect that a copy of the plaint or concise statement can be obtained by the defendant, on application, from the Court issuing the summons.

(2) Where the Court which served the summons is different from the Court issuing it, the serving Court shall retain the copy of the plaint or concise statement returned to it by its process server and shall, on application of the defendant, deliver such copy to him.

(3) The process-servers shall state in their endorsements on the duplicate summons that they have made the foot-note referred to in sub-paragraph (1)

Rule proposed to be enforced

406. The following procedure shall be observed when service of summons on a defendant has to be effected under O.V., R.17, of the Code of Civil Procedure.-

X The word "Substituted" has been omitted here

(1) When service under O.V., R.17 of the Code of Civil Procedure is effected by affixing a copy of the summons on the outer door of a defendant's ordinary residence, the serving officer shall return to the Court the copy of the plaint or concise statement accompanying the summons, adding to the summons affixed a foot-note to the effect that a copy of the plaint or concise statement can be obtained by the defendant, on application, from the Court issuing the summons.

X The word "Substituted" has been deleted here

(2) Where the Court which served the summons is different from the Court issuing it, the serving Court shall retain the copy of the plaint or concise statement returned to it by its process server and shall, on application of the defendant, deliver such copy to him.

(3) The process-servers shall state in their endorsements on the duplicate summons that they have made the foot-note referred to in sub-paragraph (1)